

Senate File 417

S-3122

1 Amend Senate File 417 as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <Section 1. NEW SECTION. 558B.1 Definitions.

5 As used in this chapter, unless the context otherwise  
6 requires:

7 1. a. "*Common interest community*" means real estate  
8 described in a declaration with respect to which a person,  
9 by virtue of the person's ownership of a unit, is obligated  
10 to pay for a share of real estate taxes, insurance premiums,  
11 maintenance, or improvement of, or services or other expenses  
12 related to, common elements, other units, or other real estate  
13 described in the declaration. "*Common interest community*"  
14 includes a planned community, a cooperative under chapter 499A,  
15 and a horizontal property regime under chapter 499B.

16 b. "*Common interest community*" does not include any of the  
17 following:

18 (1) A covenant that requires the owners of separate parcels  
19 of real estate to share costs or other obligations related to a  
20 wall, driveway, well, or other similar structure, unless all  
21 such owners consent in writing to the creation of a common  
22 interest community.

23 (2) Real estate described in paragraph "a" if all units are  
24 owned by a single owner.

25 2. "*Consumer*" means a natural person being provided a  
26 service under a service agreement, or the natural person's  
27 legal representative.

28 3. "*Record*" means presentation of a document to a county  
29 recorder in this state for official placement in the public  
30 land records.

31 4. "*Residential real estate*" means real property located  
32 in this state which is used primarily for personal, family,  
33 or household purposes and is improved by one to four dwelling  
34 units.

35 5. "*Service agreement*" means a contract under which a person

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(amending this SF 417 to CONFORM to HF 475)

1 agrees to provide a service in connection with the maintenance  
2 of, the purchase of, or the sale of, residential real estate.

3     Sec. 2. NEW SECTION.   **558B.2 Unfair service agreements —**  
4 **penalties.**

5     1. A service agreement shall be considered unfair under this  
6 section if a service that is covered by the service agreement  
7 is not required to be completely performed within one year  
8 after the date on which the service agreement is executed, and  
9 the service agreement has any of the following characteristics:

10     *a.* The service agreement purports to run with the land or  
11 to be binding on future owners of interests in the residential  
12 real estate that is the subject of the service agreement.

13     *b.* The service agreement permits assignment of the right to  
14 provide service under the service agreement without requiring  
15 notice to, and the consent of, the owner of the residential  
16 real estate that is the subject of the service agreement.

17     *c.* The service agreement purports to create a lien,  
18 encumbrance, or other real property security interest on the  
19 residential real estate that is the subject of the service  
20 agreement.

21     2. If a service agreement is unfair under this section, the  
22 service agreement shall be unenforceable.

23     3. If a person enters into an unfair service agreement  
24 with a consumer, the person commits an unlawful practice under  
25 section 714.16.

26     4. *a.* A person shall not cause an unfair service agreement,  
27 or a notice or memorandum of an unfair service agreement, to  
28 be recorded.

29     *b.* A person who causes an unfair service agreement, or a  
30 notice or memorandum of an unfair service agreement, to be  
31 recorded commits an aggravated misdemeanor.

32     *c.* A county recorder may refuse to record an unfair service  
33 agreement.

34     *d.* If an unfair service agreement is recorded, the recorded  
35 service agreement shall not provide actual or constructive

1 notice against an otherwise bona fide purchaser or creditor,  
2 or actual or constructive notice against heirs or other  
3 successors-in-interest to the residential real estate that is  
4 the subject of the recorded service agreement.

5 *e.* If an unfair service agreement or a notice or memorandum  
6 of an unfair service agreement is recorded, any person with an  
7 interest in the residential real estate that is the subject  
8 of the service agreement may apply to a district court in the  
9 county in which the service agreement is recorded for a court  
10 order declaring the service agreement unenforceable.

11 *f.* If an unfair service agreement or a notice or memorandum  
12 of an unfair service agreement is recorded, any person with an  
13 interest in the residential real estate that is the subject  
14 of the recorded service agreement may recover actual damages,  
15 costs, and attorney fees as may be proven against the person  
16 who caused the unfair service agreement or the notice or  
17 memorandum of the unfair service agreement to be recorded.

18 5. This section does not apply to any of the following:

19 *a.* A home warranty or similar agreement that covers the  
20 cost of maintenance for a fixed period of time of a major home  
21 system including but not limited to plumbing, electrical,  
22 heating, ventilation, or air conditioning.

23 *b.* An insurance contract.

24 *c.* An option or a right of refusal to purchase residential  
25 real estate.

26 *d.* A maintenance or repair agreement entered into by the  
27 homeowners' association of a common interest community.

28 *e.* A mortgage loan, or a commitment to make or to receive a  
29 mortgage loan.

30 *f.* A security agreement under the uniform commercial code  
31 related to the sale or rental of personal property or fixtures.

32 *g.* Water, sewer, electrical, telephone, cable, internet, or  
33 any other utility service providers.

34 6. This section shall not be construed to impair a person's  
35 rights established by a mechanics' lien under chapter 572.

1     Sec. 3. Section 714.16, subsection 2, Code 2023, is amended  
2 by adding the following new paragraph:  
3     NEW PARAGRAPH. *g.* It shall be an unlawful practice for a  
4 person to violate section 558B.2, subsection 3.>

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